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Sectt. H-27—27.444—18-11-45.

HOME (1946) Department.

Ms SERIES

G.O. No. 512

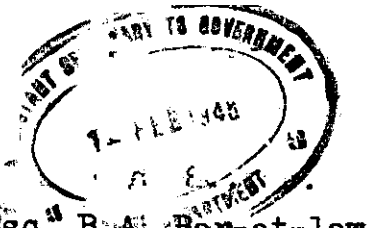
Dated 18th February 1946

D-IC (B)

[Despatch Abstract.]

Children Act - Bellary district - Junior Certified School Bellary - Pupil No.541, KUMAR - Consecutive sentences - Remitted.

Crl.No.35/46.



4920 1.2

From

K.N.Ganpati Esq., B.A., Bar-at-law.

Deputy Registrar.Appellate Side,High Court.Madras.

To

The Secretary to Government,

Home Department,Madras (with enclosures).

Dated 30-1-46

Sir,

Subject: The Madras Children Act - Junior Certified School, Bellary- pupil No.541,Kumar - sentences awarded by the Stationary Sub Magistrate Bellary in C.C.Nos.983 and 1101/44 on his file- remission of.

I am directed to forward herewith the letter of the District Magistrate, Bellary, No.2245/45 E3 dated 19-12-45 requesting the Government to remit unconditionally the sentences of detention passed on the accused by the Stationary Sub Magistrate,Bellary, in C.C.Nos.983 and 1101 of 1944 on his file.

2

pp 5- ½ infra

Copies of judgments in C.C.Nos.983 and 1101 of 1944, nominal roll of the pupil and orders of detention passed in S.C.No.5 of 1944 (Sessions Judge, Civil and Military Station Bangalore) and C.C.Nos.983 and 1101/44 (Stationary Sub Magistrate, Bellary) are enclosed. pp 7-9 infra

Deputy Registrar,

Appellate Side.

MA

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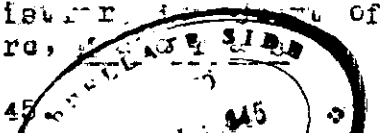
From

The Secretary to Government,
Home Department, Madras.

The Registrar, High Court of Judicature, Madras.



Lr.No.2245/45 S.3 dated 19-12-45

Sir,

Sub:--C.Uday Kumar, aged about 13 years, Junior Certified School, Bellary - Pupil who committed offence punishable under sections 457, 380 I.P.C. - Sentenced to detention in the Junior Certified School, Bellary by the Sty.Sub Magistrate, Bellary - Period of detention - Reference.

Pupil C.Uday Kumar, aged about 13 years was undergoing detention in the Junior Certified School, Bellary for a period of 2 years awarded by the Sessions Judge, Civil and Military Station, Bangalore in C.C.No.983/44 and 1101/44. While he was under detention, the pupil escaped from the school. Subsequently he was apprehended and produced before the Sty.Sub Magistrate, Bellary with charges under sections 457, 380 and 380 I.P.C. The Sty. Sub Magistrate, Bellary took the case on file, found the pupil guilty and ordered him to be detained in the Junior Certified School, Bellary for a period of 2 years in each of the cases C.C.Nos. 983/44 and 1101/44 on the file of his court, the sentences to run concurrently. He further ordered that he be detained for one month after the expiry of the criminal sentence, awarded by the Sessions Judge, Civil and Military Station, Bangalore.

2. From the nominal roll of the pupil it is seen that he was 13 years of age at the time of his conviction by the Sessions Judge, Civil and Military Station, Bangalore on 4-4-1944. He was ordered to be detained by the Sessions Judge under the provisions of "The Madras Children Act, IV of 1920". He is undergoing the sentence of detention ordered by the Sty. Sub Magistrate, Bellary in his C.C.Nos.983/44 and 1101/44 and is now undergoing the

G.C.R. ...15b... dated 2-8-39. I therefore request that the Government may be pl... d ...remit unconditionally the sentence of detention passed on ... pil, by the Stationary Sub Magistrate, Bellary in C.C. No.963/44 & 1101/44 on his file.

3. The c... records in C.C.No.963/44 and 1101/44 on the file of the Stationary Sub Magistrate, Bellary together with copies of criminal rolls of the pupil ... enclosed for favour of perusal and return.

non.Kurth:/19-12-45.

Enc:-- ... records in C.C.Nos. 963 ... & 1101/44 & copies ... minal rolls.

... Magistrate.

Judgement in C.C. No 983/44 dated 19.4.1945.
(SSm Bellary)

The Station House Officer, Cowl Bazaar, laid a charge sheet against the two accused Kempe Gowd and Kumaran, pupils of the Junior Certified School, Bellary for an offence punishable under sections 457 and 380 I.P.C.

...

3) Three witnesses were examined for the prosecution and their version is as follows;

4) Both the accused are pupils in the Junior Certified School at Bellary. On the night of 30.4.1944, both the accused committed theft of 17 coats, M.C. 1, and one towel, M.C. 11 from the store-room of the school at about mid-night time and escaped from lawful custody. When they were going about the streets of Cowl Bazaar, P.C.No. 890, (P.W.1) saw them and suspecting them in their Jail Dress, took them to the Police station. The Sub Inspector of Police, Cowl Bazaar investigated. P.W.2 the store keeper of the school says that the accused pushed the door of the store room by raising the bolt of the door from outside with their little finger, committed theft of property and escaped. The Sub Inspector also experimented this and found that there was a possibility of this act of urchins. The store-keeper also says that both the accused swept the store-room that evening and might have observed this trick and opened the door at night time. The Sub Inspector P.W. 3 produced the boys before the Jail authorities on 1.5.45 who identified the accused and the property.

5) After the close of the prosecution, the accused admitted the offence. As a prima-facie case was made out a charge under sections 457 and 380 I.P.C. was framed, read and explained to the accused. They plead guilty. I find them guilty upon their own admission under section 255 (2) Cr.P.C. and convict them under secs. 457 and 380 I.P.C.

6) The Sub Inspector of Police, files Exs. A, and B, detention orders of the offenders. As per Ex. A, the 1st accused was committed to the Junior Certified School, Bellary by the President, Juvenile Court, Vellore in his C.C. 32/41, dated 11.10.41 and ordered him to be detained there for a period of five years under sec. 381 I.P.C The Medical Officer attached to the Head Quarters Hospital, Bellary examined him and opines that he is above 20 years of age. I therefore sentence him to suffer Rigorous imprisonment for a period of six weeks under each count. The sentence to run after the expiry of the detention period he is undergoing in the Senior Certified School, Chengalpet. A.2 was also examined by the same Medical Officer who is of opinion that he has completed his 14th year. He is a youthful offender as contemplated under sec. 3 (3) of the Madras Children Act, IV of 1920. I commit A.2 to be detained in the Senior Certified School, Chengalpat for a period of two years under section 24 of the Children Act. This order will take effect after the expiry of the period he is undergoing in the Junior Certified school, Bellary.

M.Os. 1 and 11 will be returned to the Headmaster, Junior Certified School, Bellary after the expiry of the appeal time.

Pronounced in open court.

Judgement in C.C. 1101/44 dated 19.4.45.
(SSm. Bellary)

The Station House Officer, Cowl Bazaar laid a charge sheet against the two accused who are pupils in the Junior Certified School, Bellary for an offence punishable under section 224 I.P.C.

3) Two witnesses were examined for the prosecution and their version is as follows;

4) A.1 is a pupil ordered to be detained in the Junior Certified School for a period of 5 years by the President, Juvenile Court, Vellore in his C.C.No. 32/41 dated 11.10.41 under section 381 I.P.C. and was convicted under sec. 395 I.P.C. and was ordered to be detained in the Junior Certified School, Bellary by the Sessions Judge, Civil and Military Station, Bangalore for a period of three years in his C.C. 5/44. On the evening of 30.4.1944, all the inmates of the school were locked up in their respective blocks. Both of them were found missing. Both of them were found loitering in the streets of Cowl

P.T.O.

(4).

Bazaar by the Police constable 590 who suspecting their behaviour took them to the police station. The Sub Inspector after learning that they are pupils of the Junior Certified School, produced them before the school authorities the next day. The Sub Inspector during investigation learnt that both the boys were hiding in some lumber room at the time of locking up and made good their escape through the wire fencing at about mid-night time. P.W. 2 the store keeper attached to the school corroborates these facts.

5) After the close of the prosecution the accused admitted the offence as a prima-facie case was made out a charge under section 224, I.P.C. was framed, read and explained to the accused. They plead guilty. I find them guilty upon their own admission under section 255 (2) Cr. P.C. and convict them under section 224 I.P.C. The Medical Officer attached to the Head-Quarters Hospital, Bellary who is examined as a court witness opined that A.1 is above 20 years of age. I sentence him to suffer rigorous imprisonment for a period of six weeks. This will take effect after the termination of detention period he is undergoing now. A.2 is 14 years of age, as per the same Medical Officer, I commit him to be detained in the Senior Certified School, Chengalpet, for a period of two years under section 24 of the Children Act. This sentence will take effect after the termination of the period he is undergoing at present in the Junior Certified School Bellary. It is on record that both these accused are jointly tried in same court for a different offence. The sentence in this case will run concurrently with the sentence passed in C.C.No. 983/44 on the file of this court.

Pronounced in open court..

(True copy)

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S.N.R. 16.1.

16.1

For District Magistrate.

C.A.Form No.III
(Rule 63)

Nominal roll of male certified pupil No.541, Name Kumar. 1A

Residence of parents Bangalore Cantt. Religion Hindu.

Language.Tamil. Caste. -- Present age. 13

Present age. 13 Years seven months and 2 days.Previous occupation.Nil .

1. The provision of law under which detained.	Madras Children Act IV of 1920	
2. Period of detention and date of award.	(1) 3 years 4-4-1944 (2) 2 years to run consecutively with that in No.1 (3) 2 years to run concurrently with that in No.2	19-4-45
3. Adjudicating court and number of calendar case under which detained	(1) Sessions Judge C & M.Station Bangalore C.No.5/44 dated 4-4-44 (2) & (3) S.S.M.Bellary C.C.983/44 dated and 1101/44 dated19-4-45	
4. Unexpired portion of detention period.	Y. M.D 3 4 28	
5. Present state of health and fitness to undertake a journey.	Fit.	
6. Conduct in school	Satisfactory.	
7. Result of appeal if any	---	
8. Remarks if any	---	

Junior certified school,
Bellary dated 5-11-45

(Sd.) Illegible 5-11-45
Headmaster.

Personal and descriptive marks.

(1) A mole on the left side of the chin

(2) An oval scar just below the outer end of left collar bone.

(3) A vertical scar on the right side of the chest 1½" above the right nipple at 2 o'clock.

C.A.Form No.XXII
(Rule 115)

Form of the order of the detention of a youthful offender under sections 23(1) 23(2) 23(3) or25(3) read with section 24 of the Madras Children Act,1920 (Madras Act IV of 1920).

In the court of the Stationary Sub Magistrate,Bellary
Calendar case No.983 of 1944.

To
The Headmaster of the Junior certified school at Bellary

Whereas Kumar aged 13 (thirteen only) years and nil months

accused in Case No.983 of 1944 was found guilty by me Sri A. Venkata Ratnam B.A.Stationary Sub Magistrate of Bellary of the offence of house breaking and theft in a building punishable under section 457 and 380 of Indian Penal Code and was directed to be sent to a Junior certified school and there detained for a period of two years under section 23(1) read with section 24 of the Madras Children Act 1920 (Madras Act IV of 1920);

This is to authorize and require you, the said Headmaster to receive the said Kumar into the Junior certified school and there to keep him for the period ordered. This sentence will take effect after termination of the period he is undergoing at present consecutively.

1. The distance from his native place Bangalore to the nearest railway station is

2. Details of property on his person

3. Descriptive roll --

Name Kumar

Father's name. Singavelu Mudaliar.

Sex, married or single. Male, Single.

Race / Religion and caste. Mudaliar Hindu

Previous occupation, if any. Nil

Age. 13 years

Descriptive marks. One mole on the chin a little to the left side.

4. An order under section 31 of the Madras Children Act, 1920, Madras Act IV of 1920, for a payment or contribution has not been made.

Given under my hand and the seal of this court this 19th day of April 1945.

(Sd.) ....
Signature of Stationary Sub Magistrate, Bellary.

(Sd.) Illegible
Headmaster,
Govt. Junior Certified school
Bellary.

C.A. Form No. XXII
(Rule 115)

Form of the order or the detention of a youthful offender under sections 23(1) 23(2) 23(3) or 25(3) read with section 24 of the Madras Children Act. 1920 (Madras Act IV of 1920).

In the court of the Stationary Sub Magistrate, Bellary,
Calendar case No. 110 of 1944

To

The Headmaster of the Junior certified school at Bellary.

Whereas Kumar aged 13 thirteen) years and nil months accused in Case No.1101 of 1944 was found guilty by me Sri A.Venkata Ratnam B.A., Stationary Sub Magistrate of Bellary of the offence of escape from lawful custody punishable under section 224 of Indian Penal Code and was directed to be sent to a Junior/Senior certified school and there detained for a period of two years under section 26(1) read with section 24 of the Madras Children Act, 1920 (Madras Act IV of 1920):

This is to authorize and require you the said Headmaster to receive the said Kumar into the certified school and there to keep him for the period ordered.

1.The distance from his native place. Bangalore to the nearest railway station is

2.Details of property on his person.

3.Descriptive roll

Name Kumar Kumaran

Father's name Singaravelu Mudaliar

Sex,married or single.Male, Single

Race,religion and caste.Mudaliar.Hindu

Previous occupation if any. Nil

Age.13 years.

Descriptive marks. One mole on the chin a little to the left side.

4.An order under section 31 of the Madras Children Act. 1920, Madras Act IV of 1920 for a payment of contribution has not been made.

This sentence to run concurrently with the sentance passed in C.C.983/44.

Given under my hand and the seal of this court this 19th day of April 1945.

(Sd.)..
Headmaster,Govt.Junior certified school,Bellary.

Sd....
Signature of Stationary Sub-Magistrate,Bellary.

C.A.Form No.XXII
(Rule 115)

Form of the order of the detention of a youthful offender under sections23(1),23(2),23(3) or 25(3) read with section 24 of the Madras Children Act,1920 (Madras Act IV of 1920).

In the court of the Sessions Judge Civil and Military station,Bangalore;

Sessions case No.5 of 1944.

To

The Headmaster of the Junior certified school at Bellary.

Whereas Kumar aged about 12 years and nil months accused in case No.5 of 1944 was found guilty by me P.Medapa Esq.B.A.,B.L., Sessions Judge, Civil and Military Station,Bangalore of the offence of dacoity punishable under section 395 of the Indian Penal Code and was directed to be sent to a Junior certified school and there detained for a period of three years under sections 23 and 24 of the Madras Children Act,1920 (Madras Act IV of 1920);

This is to authorize and require you, the said Headmaster to receive the said Kumar into the Certified school and there to keep him for the said period of three years.

1.The distance from his native place.Bangalore CivilandMilitary station. to thenearest railway station in Bangalore is about six furlongs.

2.Detailsof property on his person.

3.Descriptive roll

Name. Kumar
Father's name. Singaravelu Mudaliar
Sex,married or single. Male single
Race,religion and caste.Indian Hindu
Previous occupation if any.Nil.
Age.

Description or marks (1) A mole on the chin a little to the left side
(2) The name 'Vishalakshmi' tatooed in tamil on the left forearm.

Mother tongue: Tamil.

Copy of the judgment is sent herewith.

Given under my hand and the seal of this court this 4th day of April 1944.

(Sd.)
Headmaster, Govt.Junior
Certified school,Bellary.

(Sd.) P.Medappa,
Signature of Sessions Judge

M.A

(49207/46) 20/18.2.46

Excise I-a1-1/11 15-16 GF

4 Gp. 3162 2-12-43 (b) GH

FF 3. 4 C:-

pp 1-2 CF

G.O.Ms.No. 512 Dated 18.2.46

Bellary dt.

Home Department

Children Act - Junior Certified School, Bellary - Pupil No.541, KUMAR - Consecutive sentences - Remitted.

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Read the following:

From the D.M., Bellary, No.2245/45 E3 d/19-12-45.

Dy. Registrar, Appellate Side, Endt. of the High Court, No.Crl.35/46 d/30-1-46.

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Order -

In exercise of the powers conferred by section 401 of the Code of Criminal Procedure, 1898, H.E. the Governor of Madras hereby remits unconditionally the sentences of detention passed on the pupil No.541, KUMAR in the Junior Certified School, Bellary by the Stationary Sub Magistrate, Bellary in C.C.No.983/44 and 1101/44 on his file.

Amp. 7c F

pp 5-6c F Dospd 18.2.46

To the D.M.Bellary
" Hon.C.F.J,
Copy " Chief Inspector of Cert.Schools

(Copy for Stock file)

8M 9.2.46 8R/46

12.2.46

Pl 14/46

address & 23/2/46

Home Dept.

C.No.4920F/46. Children Act - Junior Certified School, Bellary - Pupil No. 541 KUMAR - Consecutive sentences.

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From the D.M., Bellary, No.2245/45 E3 d/16-12-45.

Endt. of the High Court, Crl.No.35/46 d/30-1-46.

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Please see the D.M's letter on pp. 3-4 c.f. and the High Court's Endt. on pp. 1-2 c.f. Pupil No.541 Kumar of the Junior Certified School, Bellary was originally convicted by the Sessions Judge, C and M. Station, Bangalore in S.C.No.5/4 on his file under sec. 395 I.P.C. and was directed to be detained in a Junior Certified School for 3 years under sections 23 and 24 of the Children Act along with another committed theft of some school property. The pupil escaped from custody while under detention in the school and subsequently he was convicted by the S.S.M., Bellary in C.C.Nos. 983 and 1101/44 on his file and ordered to be detained in the Junior Certified School, Bellary under sec. 24 of the Children Act for a period of 2 years in each of the two cases, the two sentences running concurrently but taking effect after the termination of the period of detention ordered by the Sessions Judge, C & M Stations, Bangalore in S.C.No. 5/44 on his file. The imposition of consecutive sentences under the Children Act is illegal. To remedy the illegality two courses are open - one, to file a petition to the High Court under section 42(3) or the Children Act for revising the orders of the two S.S.M. and the other, to remit unconditionally under sec. 401 Cr.P.C. the two sentences of detention passed on the two S.S. Cases by the Magistrate, Bellary. The Dt. Magistrate recommends the latter course. For orders whether the D.M's recommendation may be accepted. If so, the draft order submitted is for approval.

FEB 16 1946 GOVT. OF MADRAS

8m 8/2/46 9.2.46

7a 12.2.46 S

He will be detained in a care full Bpmt 4) The DM's recm^n is approved

15/2/46

The D.M's recommendation will cure the illegality & may be accepted.

Mrs fo.512 15/2/46

14/2/46 A.S.